

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

IRVIN F. KRAMER,)	CASE NO. 5:07 CV 3002
)	
Plaintiff,)	JUDGE PETER C. ECONOMUS
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
STATE OF OHIO,)	<u>AND ORDER</u>
)	
Defendant.)	

On October 2, 2007, plaintiff pro se Irvin F. Kramer, an inmate at the Grafton Correctional Institution, filed this 42 U.S.C. § 1983 action against the State of Ohio. The complaint alleges plaintiff is actually innocent of an offense for which he was convicted in the Ohio Court of Common Pleas. For the reasons stated below, this action is dismissed.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167 , at *2 (6th Cir. Feb. 1, 2000).

Plaintiff is essentially challenging the validity of his

state conviction and its effect on the duration of his present confinement. When a prisoner challenges "the very fact or duration of his physical imprisonment, ... his sole federal remedy is a writ of habeas corpus." Preiser v. Rodriguez, 411 U.S. 475 (1973).

Accordingly, this action is dismissed under 28 U.S.C. § 1915A. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

S/Peter C. Economus - 12/19/07
PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE